

record subject to a FOIA request, litigation hold, or any other hold requirement to retain the records.

§ 1230.10 Who is responsible for preventing the unlawful or accidental removal, defacing, alteration, or destruction of records?

The heads of Federal agencies must:

(a) Prevent the unlawful or accidental removal, defacing, alteration, or destruction of records. Section 1222.24(a)(6) of this subchapter prohibits removing records from the legal custody of the agency. Records must not be destroyed except under the provisions of NARA-approved agency records schedules or the General Records Schedules issued by NARA;

(b) Take adequate measures to inform all employees and contractors of the provisions of the law relating to unauthorized destruction, removal, alteration or defacement of records;

(c) Implement and disseminate policies and procedures to ensure that records are protected against unlawful or accidental removal, defacing, alteration and destruction; and

(d) Direct that any unauthorized removal, defacing, alteration or destruction be reported to NARA.

§ 1230.12 What are the penalties for unlawful or accidental removal, defacing, alteration, or destruction of records?

The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

§ 1230.14 How do agencies report incidents?

The agency must report promptly any unlawful or accidental removal, defacing, alteration, or destruction of records in the custody of that agency to NARA, by mail at National Archives and Records Administration; Office of the Chief Records Officer (AC); 8601 Adelphi Road; College Park, MD 20740-6001, or by email at RM.Communications@nara.gov.

(a) The report must include:

(1) A complete description of the records with volume and dates if known;

(2) The office maintaining the records;

(3) A statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of records;

(4) A statement of the safeguards established to prevent further loss of documentation; and

(5) When appropriate, details of the actions taken to salvage, retrieve, or reconstruct the records.

(b) The report must be submitted or approved by the individual authorized to sign records schedules as described in § 1220.34(b) of this subchapter.

[74 FR 51014, Oct. 2, 2009, as amended at 83 FR 13654, Mar. 30, 2018]

§ 1230.16 How does NARA handle allegations of unlawful or accidental removal, defacing, alteration, or destruction?

Upon receiving any credible information that records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, NARA will contact the agency as follows:

(a) If the threat has not yet resulted in damage, removal, or destruction, NARA will contact the agency by phone promptly and follow up in writing within five business days.

(b) If records have allegedly been damaged, removed, or destroyed, NARA will notify the agency in writing promptly with a request for a response within 30 days.

§ 1230.18 What assistance is available to agencies to recover unlawfully removed records?

NARA will assist the head of the agency in the recovery of any unlawfully removed records, including contacting the Attorney General, if appropriate.

PART 1231—TRANSFER OF RECORDS FROM THE CUSTODY OF ONE EXECUTIVE AGENCY TO ANOTHER

Sec.

1231.1 What is the authority for part 1231?

1231.2 What definitions apply to this part?